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International Convention on the Elimination of all Forms of Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-fifth session
2 - 27 August 1999

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Haiti

1. The Committee considered the tenth to thirteenth periodic reports of Haiti (CERD/C/336/Add.1) at its 1334th and 1335th meetings (see CERD/C/SR.1334 and 1335), on 2 and 3 August 1999. At its 1354th meeting (see CERD/C/SR.1354), on 16 August 1999, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the tenth, eleventh, twelfth and thirteenth periodic reports submitted by the Government of Haiti in one document as well as the opportunity thus offered to renew its dialogue with the State party. Although the Committee welcomes that the report followed the guidelines, it is of the view that the information in the report was too concise and that the report did not sufficiently address the Committee's concluding observations relating to the previous report of the State party. The Committee is encouraged by the presence of a high-ranking delegation and expresses its appreciation for the constructive dialogue with the delegation and the additional information provided in response to the questions asked.

B. Factors and difficulties impeding the implementation of the Convention

3. The Committee notes that the situation of human rights in the State party has improved, despite the continuing threats to its political and economic stability. In this connection, the Committee draws attention to the negative effects of the current political, economic and social crisis in the State party which have exacerbated discrimination among the different ethnic groups of the population. These factors are significant obstacles to the full implementation of the Convention.

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C. Positive aspects

4. The Committee expresses its satisfaction with the information provided in the State party's report that international instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, become an integral part of its domestic legislation and are binding on the judicial and other authorities of the State.

5. The Committee notes that the State party's Constitution (1987) embodies the principles enshrined in the Universal Declaration of Human Rights, including the prohibition of racial discrimination.

6. The Committee notes with appreciation the State party's implementation of an international cooperation programme in the field of human rights in cooperation with the Office of the United Nations High Commissioner for Human Rights.

D. Principal subjects of concern

7. Concern is expressed at the State party's repeated assertion that there is no racial discrimination as defined in article 1 of the Convention. In this connection, the Committee is of the opinion that the absence of complaints and legal action by victims of racism may possibly be an indicator of a lack of awareness of the existence of available legal remedies in cases of racial discrimination, and that members of the public may not be sufficiently aware of the protection against racial discrimination provided by the Convention.

8. While noting that the State party's domestic legislation (Decree of February 1981) makes all acts of racial discrimination punishable by law, concern is expressed at the lack of information on the implementation of article 4 of the Convention, especially on how this principle is applied by judges, lawyers and civil servants.

9. Although it is noted that the State party's Constitution (1987) guarantees the enjoyment, without discrimination, of most of the rights enshrined in article 5 of the Convention, concern is expressed about reports of human rights violations committed by members of the Haitian National Police and that too little is done to prevent persons perpetrating, with impunity, acts of violence related to racial discrimination. Concern is also expressed at the lack of domestic legislation to prevent acts of racial discrimination by individuals in implementation of articles 2 (1) (d) and 5 (e) of the Convention.

10. While noting that the State party's Civil Code (arts. 1168 and 1169) establishes a legal mechanism for reviewing complaints of racial discrimination on the part of the State, concern remains that this legislation does not fully reflect the provisions of article 6 of the Convention.

11. With regard to the implementation of article 7 of the Convention, concern is expressed that the Convention has not yet been translated into Creole, since this is the other official language.

E. Suggestions and recommendations

12. The Committee recommends that the State party in its next periodic report provide full information on the demographic composition of the population in the light of paragraph 8 of the reporting guidelines, together with socio-economic indicators on the situation of the various ethnic communities.

13. Emphasizing the role of the judicial system in eliminating racial discrimination, while noting the current reforms to that system, the Committee requests the State party to include in its next periodic report a description of the existing legal mechanisms available to lodge complaints in cases of racial discrimination (e.g., in the light of the decree of 4 February 1981 and

the relevant articles of the Civil Code). In this connection, the Committee further recommends that the State party review its domestic legislation in accordance with articles 4 and 6 of the Convention.

14. In the light of articles 2 and 5 of the Convention, the Committee recommends that the State party enact legislation for the prevention of racial discrimination in the private sector. In this connection, the Committee recommends that the State party consider the establishment of a national institution to facilitate the implementation of the Convention, in accordance with the Committee's general recommendation XVII.

15. The Committee recommends that the State party include in its next report information on the restrictions upon foreigners of different racial or ethnic origin and upon non-native Haitians, with respect to the enjoyment of the rights enumerated in article 5 of the Convention.

16. The Committee recommends that the State party consider providing education and training on racial tolerance and human rights issues to law enforcement officials, in accordance with article 7 of the Convention and general recommendation XIII of the Committee. In addition, the Committee suggests that the State party review its disciplinary action against perpetrators of police brutality with a view to reinforcing measures against such perpetrators.

17. The Committee requests the State party to include information in its next report on measures undertaken or envisaged for improving public awareness of the Convention. The Committee further suggests that the State party may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.

18. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered. The Committee also recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention.

19. The Committee recommends that the State party's next periodic report, due on 18 January 2000, be an updating report and that it address the points raised during the consideration of the report.